

REMARKS/ARGUMENTS

Claims 1 to 6, 15, 20 to 22, 33, 36 to 38, 43 to 45, 47, 48, 50, 51 and 56 to 59 remain pending in this application. Claim 1 has been amended. Claim 49 is currently deleted.

The undersigned inadvertently amended claim 1 to exclude a methyl linker between the phenyl group of formula (I) and the attached piperazinyl or morpholinyl. Each of the claimed compounds named in claims 44 and 45 contains such a linker. Basis for the claim as it stands now amended may be found on page 5, the last and second to last lines where G is a alternative for W; on page 6, line 2 where -L₂Q is an option for G; on page 6 where L₂ may be C₁ alkylene and Q is defined on page 7 starting at line 3. Piperazinyl and morpholinyl are selections for Q as recited in (k) at the top of page 17, for example.

Claims 1-6, 15, 20-22, 33-38, 44, 45, 48, 49, 51, 56, 58, and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goto et al. The Examiner notes that Goto et al. generically teach portions of Applicants' unamended claims.

The compounds containing the above-mentioned linker (for ex the compounds of claims 44 and 45) do not fall within the genus of Goto et al. and may be structurally distinguished on this basis. In any case, the arguments that follow as to the compounds, which do not contain the linker (for ex the compounds of claim 43) are equally applicable to those containing the linker.

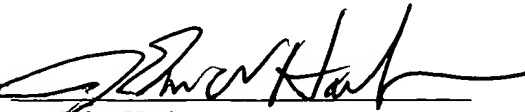
Goto et al. fail to teach or describe Applicants' H3 activity. H3 activity is central to Applicants invention. Further the described uses of Goto et al., col 17, line 51 are not Applicants' claimed uses. The only apparent overlap in uses is dementia. However, Applicants dementia is H3 related and the dementia of Goto et al. is related to damage to nerve cells by active oxygen and peroxides.

Also, Goto et al. fail to teach or disclose what structural features will give useful H3 activity. The Examiner should compare the activity of Applicants' example 8 (not claimed) to claimed examples 11, 12, 15, 16, 17, 18 and 19. The activity of example R5 "not H", as claimed by Applicants, is a key structural feature to achieving useful H3 activity. Goto et al disclose the possibility of their equivalent R5 being "not H" but of course their examples are of compounds where their equivalent R5 is H, for instance the Goto et al. example 6. Thus, Applicants can argue that Goto et al. to some extent teach away from their equivalent R5 being other than H. There are additional showings in Applicants specification supporting the criticality of R5 being "not H" (though less on point because they do not fall within the present claims). Example 85 compared to example 86. Example 9 compared to examples 20, 24, 25, 26, 28, 29, 31 and 32.

Goto et al. fail to teach Applicants' uses and fail to teach what structural features will give H3 activity. Based on this the Examiner should reconsider the obviousness rejection.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

By 
John Harbour
Reg. No. 31,365

Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003
(732) 524-2169
Dated: June 9, 2003